
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

RENA DELGADO,

Plaintiff,

v.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

MEMORANDUM DECISION AND
ORDER GRANTING MOTION FOR
ATTORNEY FEES

Case No. 2:10-cv-431 DN

Magistrate Judge David Nuffer

Plaintiff Rena Delgado filed a motion for attorney fees¹ in the amount of \$4,900.00 under the Equal Access to Justice Act (“EAJA”).² The EAJA provides that “a court shall award to a prevailing party other than the United States fees and other expenses . . . unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.”³ Delgado is a prevailing party under the EAJA, having obtained a remand of the case to the Commissioner for further proceedings.⁴

The Commissioner does not object to an award of EAJA fees payable to Delgado and “acknowledges that this award is without prejudice to Plaintiff’s right to seek attorney fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA.”⁵ The Commissioner emphasizes that the award of fees must be paid directly to the client, rather than her attorney. The Supreme Court has held that under the plain language of the

¹ Application Motion for Fees Under the Equal Access Under Justice Act (Motion), docket no. 25, filed January 27, 2012.

² 28 U.S.C. § 2412(d)(1)(A).

³ *Id.*

⁴ Order Granting Unopposed Motion to Remand , docket no. 23, filed September 30, 2011.

⁵ Defendant’s Response to Plaintiff’s Application for Fees Under the Equal Access to Justice Act (Response) at 2, docket no. 26, filed February 1, 2012.

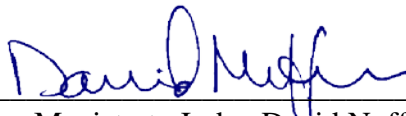
statute, a fee award is payable to the litigant, not her attorney, and is subject to setoff for any preexisting debt owed to the United States.⁶

ORDER

Delgado's motion for an award of attorney's fees under the Equal Access to Justice Act in the amount of \$4,900.00 is **GRANTED**⁷ and the award shall be payable to Ms. Delgado.

DATED this 23rd day of February, 2012.

BY THE COURT

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

Magistrate Judge David Nuffer

⁶ *Astrue v. Ratliff*, 130 S. Ct. 2521, 2525-27 (2010).

⁷ Docket no. 25.